



IN THE 13TH JUDICIAL CIRCUIT COURT, BOONE COUNTY, MISSOURI

Ann Mcgruder,
Plaintiff,

vs.

Board Of Curators University Of Missouri-columbia,
Defendant.

Case Number: 19BA-CV02625

Entry of Appearance

Comes now undersigned counsel and enters his/her appearance as attorney of record for Ann Mcgruder, Plaintiff, in the above-styled cause.

/s/ PETER S. GARDNER

Peter Gardner
Mo Bar Number: 70073
Attorney for Plaintiff
2900 Sw 10th Terrace
Lee's Summit, MO 64081
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Certificate of Service

I hereby certify that on June 28th, 2019, a copy of the foregoing was sent through the Missouri eFiling system to the registered attorneys of record and to all others by facsimile, hand delivery, electronic mail or U.S. mail postage prepaid to their last known address.

/s/ PETER S. GARDNER

Peter Gardner

IN THE CIRCUIT COURT OF BOONE COUNTY MISSOURI

ANN MCGRUDER,)	
)	
Plaintiff,)	
vs.)	
)	Case No.:
BOARD OF CURATORS)	
UNIVERSITY OF)	
MISSOURI-COLUMBIA)	
)	
Defendant.)	

PETITION

COMES NOW Plaintiff Ann McGruder, by and through undersigned counsel, and in support of her causes of action against Defendant, states as follows:

PARTIES

1. Plaintiff Ann McGruder is a resident of the State of Missouri who resides in Boone County, Missouri.
2. Defendant Board of Curators for the University of Missouri has the power to sue or be sued and defend suits on behalf of the University of Missouri in all courts under Article IX, sections 9(a) and 9(b) of the Missouri Constitution and section 172.020 RSMo.
3. Defendant and the University of Missouri-Columbia School of Medicine ("MUSOM") employ more than six people within the State of Missouri and meet the statutory definition of "employer" contained at Section 213.010(7) RSMo. of the MHRA.
4. The MUSOM employed Ms. McGruder from August, 2016 to January, 2018 in the position of Associate Director of Administration in the

Department of Surgery at the Ellis Fischel Cancer Center in Columbia, Missouri.

JURISDICTION AND VENUE

5. This is a statutory cause of action created by the Missouri Human Rights Act ("MHRA"), sections 213.010 et.seq. RSMo.

6. On July 2, 2018, Ms. McGruder submitted her Charge of Discrimination with the Missouri Commission on Human Rights ("MCHR"), as required by Section 213.111 RSMo. McGruder's charge is attached as Exhibit 1.

7. On April 1, 2019, the MCHR issued a right to sue notice to Ms. McGruder attached as Exhibit 2.

8. Ms. McGruder has exhausted all administrative remedies required by the MHRA and filed this action within 90 days of issuance of the right to sue notice by the MCHR, in compliance with sections 213.010-137 RSMo.

9. Venue is proper in this court in that all parties reside in Boone County, Missouri, the events described in this Petition occurred in Boone County, the amount in controversy exceeds \$25,000.00 and Ms. McGruder seeks declaratory, injunctive, and equitable relief pursuant to §213.010, et. seq. of the MHRA.

FACTS IN COMMON WITH ALL COUNTS

10. Ann McGruder is a 51 year old female and a member of protected class under Chapter 213 of the Missouri Human Rights Act.

11. Ms. McGruder graduated from the University of Missouri-Columbia in May 1990 and has worked at the University of Missouri-Columbia in multiple positions over the last twenty years.

12. In August 2016, McGruder was offered and accepted the Associate Director of Administration (“AD”) position in the Department of Surgery at the Ellis Fischel Cancer Center. Dr. Kevin Staveley-O’Carroll was the Chairman of the Department of Surgery in August 2016 and Ms. McGruder’s direct supervisor. Dr. Kevin Staveley-O’Carroll acted on behalf of the MUSOM at all times pertinent to the employment claims of Plaintiff Ms. McGruder.

13. Ms. McGruder’s responsibilities as AD included managing the recruitment of faculty and staff on behalf of the Department of Surgery, and strategic planning and implementation to achieve the missions of the Department of Surgery and Dean of the School of Medicine. Her duties also included oversight and development of structures and initiatives relating to fiscal processes, grants, human resources, coding and billing, clinical activity, promotion and tenure, faculty evaluation and discipline systems, philanthropy and credentialing for the Department of Surgery. Ms. McGruder also performed several other administrative functions.

14. McGruder began work at Ellis Fischel Cancer Center in early August 2016. Soon after, Dr. Staveley-O’Carroll asked McGruder to perform duties associated with the Director of Administration in the Department of Surgery (“DA”) which were not being performed.

15. Although the DA position carried different responsibilities than the AD position that Ms. McGruder was hired for, she accepted the DA assignment because her new supervisor requested it and she wanted to demonstrate her willingness to accept responsibility for the success of the Department of Surgery.

16. Ms. McGruder performed the responsibilities of the DA in the Department of Surgery from August 2016 until late June, 2017 and received good reviews and evaluations of her work by faculty and staff members in the Department of Surgery.

17. While performing the DA responsibilities, Ms. McGruder learned that a man named Matt Waterman had been hired as the DA before Ms. McGruder was hired. However, Waterman was not performing the duties of the DA even though he was on the MUSOM payroll for many months.

18. During the course of her employment at Ellis Fischel Cancer Center, Ms. McGruder complained to Dr. Staveley-O'Carroll on several occasions that Waterman was compensated as the DA, although he did not perform the full scope of duties established for the position.

19. During the summer of 2017, Ms. McGruder learned that Mr. Waterman would officially assume the DA role, minus certain duties, for more annual salary than McGruder was paid for performing duties that should have been performed by Waterman.

20. This disparity in pay and work responsibilities continued throughout McGruder's employment and was reflected in every paycheck received by Ms. McGruder while employed by the MUSOM.

21. After several weeks of exercising the responsibilities of the DA, Ms. McGruder requested an increase in compensation to reflect her new duties. This request was denied by Staveley-O'Carroll and Ms. McGruder continued to perform duties properly assigned to Mr. Waterman.

22. After denying McGruder's request for more equal pay, Staveley-O'Carroll started excluding Ms. McGruder from meetings with Division Chiefs, Department and Division staff, hospital administration, CSA integration, and finance/budget strategic planning. These meetings often involved Ms. McGruder's areas of responsibility.

23. Dr. Staveley-O'Carroll would deliberately convene these meetings within Ms. McGruder's hearing so that she would know that she was excluded. This was deliberate and malicious retaliation against Ms. McGruder because she had challenged the sex discrimination that paid Mr. Waterman more than McGruder even though she was doing work that was Waterman's responsibility as DA.

24. In July 2017, Ms. McGruder spoke directly with Marla Lampp, the Assistant to the Dean of the MUSOM, Patrice Delafontaine, and communicated her negative employment experiences under Dr. Staveley-O'Carroll. Ms. McGruder followed this conversation with a confirmatory memorandum to Ms. Lampp in July, 2017, detailing her negative employment experience, the pay

disparity between Ms. McGruder and Matt Waterman, and the fact that Ms. McGruder was removed from the role she had been performing in retaliation for complaining about that pay disparity.

25. No action was taken by the MUSOM to address or correct the disparity of pay and work responsibilities between Ms. McGruder and Mr. Waterman in response to Ms. McGruder's complaints.

26. On August 23, 2017 , Ms. McGruder reported to the MUSOM HR department that she could no longer tolerate the toxic work environment created and maintained by Dr. Staveley-O'Carroll and requested that her position be transferred to the Office of Dean Dr. Patrice Delafontaine. Many administrative solutions were offered by McGruder to alleviate the discriminatory, toxic and retaliatory behavior of Dr. Staveley-O'Carroll and allow her to continue work for MU.

27. On August 29, 2017, Ms. McGruder emailed a Director of Human Resources at MUSOM that Dr. Staveley-O'Carroll "has violated federal employment law...and the environment is becoming hostile and toxic". Furthermore, she requested that her position be shifted to the Dean of the School of Medicine or to campus.

28. McGruder's transfer request was denied by Dean Delafontaine. In August, 2017, Ms. McGruder received an email from HR that the "Office of Civil Rights and Title IX...will reach out to you to conduct a preliminary investigation".

29. On September 14, 2017, Dr. Staveley-O'Carroll emailed Ms. McGruder stating "It has come to my attention that you have concerns regarding your treatment in terms of gender equity. It is very important to me that you know these issues are appropriately explored. For this reason, I am contacting the Title IX office to make them aware..."

30. After receiving the September 14, 2017 e-mail, Ms. McGruder was surprised, disappointed, and fearful that the Dean's office had disclosed to Staveley-O'Carroll her complaints about him and the hospital, retaliatory work environment that he created and encouraged. McGruder viewed Staveley-O'Carroll's e-mail as an attempt to intimidate her and to let her know that he was aware that McGruder had reported his unacceptable discriminatory conduct.

31. In September, 2017, McGruder e-mailed HR again and expressed her concern about the disclosure of her complaints to Dr. Staveley-O'Carroll. Ms. McGruder observed that "Typically, Title IX would reach out to the individuals raising the concern not the individual named ..."

32. Despite Ms. McGruder's complaints, no investigation was ever conducted by the University under Title IX, the Office of Civil Rights or the Missouri Human Rights Act. If any investigation of McGruder's complaints was conducted, no results of any investigation of her complaints were ever communicated to Ms. McGruder.

33. On January 5, 2018, Ms. McGruder was terminated from her position at the MUSOM.

COUNT I

SEX DISCRIMINATION AGAINST ANN MCGRUDER IN VIOLATION OF SECTION 213.055.1 OF THE MISSOURI HUMAN RIGHTS ACT

34. Plaintiff re-alleges and adopts each allegation set forth in paragraphs 1-33 of this Petition.

35. Section 213.055.1 RSMo. makes it unlawful:

a. For an employer, because of the race, color, religion, national origin, **sex**, ancestry, age or disability of any individual:

b. To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, **sex**, ancestry, age or disability;

c. To limit, segregate, or classify his employees or his employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, national origin, **sex**, ancestry, age or disability;

SALARY DISPARITY

36. Sex was a contributing and motivating factor in the salary disparity and job termination experienced by Ms. McGruder.

37. Soon after she began work at the MUSOM, Ms. McGruder was tasked with major duties that were properly the responsibility of Matt Waterman, a male hired by Staveley-O'Carroll as DA.

38. McGruder worked often on nights and weekends and had many 60-70 hour work weeks while performing the extra duties that should have been assigned to Mr. Waterman. However, Waterman was compensated more

than Ms. McGruder even though she was performing roles and functions properly tasked to Waterman.

39. On multiple occasions, Ms. McGruder complained to Dr. Staveley-O'Carroll and others about the pay disparity between her and Waterman. However, MUSOM never raised McGruder's salary to reflect the extra duties she was performing.

40. Ms. McGruder's sex was a contributing and motivating factor to the continuous salary discrimination she experienced while employed by the MUSOM and her complaints about the sexually discriminatory pay disparity between her and Mr. Waterman was a contributing and motivating factor in MUSOM's termination of her from her position as Assistant Director at the School of Medicine.

HOSTILE WORK ENVIRONMENT

41. Ms. McGruder observed Dr. Staveley-O'Carroll targeting female staff and faculty as incompetent so that he could remove and replace them with his male friends. Dr. Staveley-O'Carroll's aggressive verbal contempt for other doctors, DOS staff, and women shocked and intimidated Ms. McGruder while under his supervision.

42. On many occasions, Ms. McGruder was asked by Staveley-O'Carroll to "figure out a cause" to terminate certain females or at the very least reassign them to a different department. On at least one occasion in August, 2017, Staveley-O'Carroll expressed disappointment when Ms.

McGruder suggested there were no grounds for termination of a specific female employee, and that he should not fire her.

43. Dr. Staveley-O'Carroll was often verbally abusive to the MUSOM staff and faculty. On one occasion he called one tenured female staff member "crazy", stating that "she needs counseling, is not worth helping, and should be removed".

44. The hostile work environment at the MUSOM was not limited to Dr. Staveley-O'Carroll. Numerous employees, supervisors, and decision makers contributed to the toxic work environment that had many employees fearful for their job. This included the Office of Dean Patrice Delafontaine.

45. On one occasion, Marla Lampp, the Associate Dean for Administration, requested that Ms. McGruder remove a female employee and cite "structural change and fiscal pressure" as the reasons. Ms. McGruder disagreed and stated that there would be no legitimate cause for removal and it would be disingenuous to terminate a person under false pretenses.

46. The retaliatory environment at the MUSOM was further illustrated when Ms. McGruder witnessed Waterman and Dr. Staveley-O'Carroll verbally discusses changing payouts to a faculty member because they did not like this faculty member and wanted this faculty member to leave MUSOM.

47. Ms. McGruder also witnessed the forced resignation of one faculty member who was told that they would be turned in to the National Practitioner Data Bank if the faculty member did not resign. The threatened faculty member was replaced by one of Dr. Staveley-O'Carroll's close friends. Dr.

Staveley-O'Carroll's threats of firing faculty and replacing them with male friends were particularly disturbing to Ms. McGruder because she observed this conduct and had explained to Dr. Staveley O'Carroll the legal issues with this threatened conduct.

48. The constant and ongoing discussions witnessed by Ms. McGruder about pretexts for terminations caused her to be fearful for her job because of her ongoing complaints about salary discrimination, the lack of work product from Mr. Waterman, and the lack of cause for terminating various employees.

49. The hostile culture and work environment at the MUSOM was unavoidable, continuous, and the Office of the Dean discouraged reporting of mistreatment. When Ms. McGruder complained about the hostile work environment and sex discrimination at the MUSOM, her complaints were disclosed to Dr. Staveley-O'Carroll, the main cause of the hostile environment.

50. Ms. McGruder is informed and believes that in addition to the conduct described above, the School of Medicine, through its agents and employees, engaged in unlawfully discriminatory conduct against Ms. McGruder which is not fully known, but subject to discovery. Ms. McGruder will seek leave of court to amend her Petition at such time(s) as additional discriminatory conduct becomes known through discovery in this case.

51. As a direct and proximate result of the actions of the School of Medicine, Ms. McGruder has suffered emotional distress, financial loss, loss of professional status, and lasting psychological harm.

52. Ms. McGruder is informed and believes that the outrageous conduct of defendant MUSOM and its agents described above was malicious and oppressive, and done with a conscious disregard of Ms. McGruder's rights with the intent to injure her. MUSOM ratified the discriminatory conduct of its agents and employees against Ms. McGruder by participating in and failing to stop the illegal discriminatory conduct against Ms. McGruder.

53. As a further direct and proximate result of the defendant's violation of the Missouri Human Rights Act, Ms. McGruder has been compelled to retain the services of counsel in an effort to enforce the Act, and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff requests that attorney's fees and costs be awarded pursuant to the Missouri Human Rights Act.

WHEREFORE, Ms. McGruder respectfully requests judgment against defendant MUSOM as follows:

1. Reinstatement Ms. McGruder to her position as Associate Director of Administration, or, in lieu of reinstatement, order front salary and benefits for the period remaining until Ms. McGruder's retirement;
2. Award Ms. McGruder equitable relief in the form of back salary and fringe benefits up to the date of judgment;
3. For emotional distress, compensatory and general damages according to proof at trial;
4. For punitive damages;
5. For attorneys' fees pursuant to the MHRA and costs of suit;
6. Prejudgment and post-judgment interest on all amounts claimed; and
7. Such other and further relief as the court deems just and proper.

COUNT II

**RETALIATION IN VIOLATION OF SECTION 213.070 OF THE MISSOURI
HUMAN RIGHTS ACT**

54. Plaintiff re-alleges and adopts each allegation set forth in paragraphs 1-53 of this petition.

55. Section 213.070 RSMo of the MHRA states in pertinent part:

- a. To aid, abet, incite, compel, or coerce the commission of acts prohibited under this chapter or to attempt to do so;
- b. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted, or participated in any manner in any investigation, or proceeding or hearing conducted pursuant to this chapter....

56. Ms. McGruder was retaliated against for her: (1) complaints to Dr. Staveley-O'Carroll about the pay disparity between Ms. McGruder and Matt Waterman; (2) complaints to Staveley-O'Carroll about performing the DA duties that were properly assigned to Waterman; (3) complaints made to MUSOM about Dr. Staveley-O'Carroll's hostile and sexually discriminatory work environment; and (4) complaints to Dr. Staveley-O'Carroll about the legality of firing employees and replacing them with his male friends.

57. Ms. McGruder was retaliated against in violation of Section 213.070 of the MHRA in the following ways:

- a. MUSOM terminated her position in January 2018 using the same type of "department organization" pretext that Dr. Stanley-O'Carroll and Marla Lampp had requested that Ms. McGruder use in terminating other employees without cause;

- b. Denial of Ms. McGruder's efforts to obtain a transfer from the Department of Surgery to the Dean's Office;
- c. Exclusion from meetings she was previously invited to on topics that were relevant to her job responsibilities;
- d. Thinly veiled threats from Dr. Staveley-O'Carroll designed to intimidate Ms. McGruder and let her know that Staveley-O'Carroll was aware of McGruder's complaints about him;
- e. When seeking a new position at the MUSOM, multiple Departments indicated to Ms. McGruder that they would not hire her because of potential retaliation by Staveley-O'Carroll.

58. Ms. McGruder is informed and believes that in addition to the acts of unlawful retaliation described above, defendant has engaged in retaliatory practices against Ms. McGruder which are not fully known but subject to discovery. At such time as such retaliatory practices become fully known to Ms. McGruder through discovery, she will seek leave of court to amend this Petition in that regard.

59. The MUSOM breached its duty to Ms. McGruder under section 213.070 of the Missouri Human Rights Act by engaging in and facilitating retaliation against Ms. McGruder because she opposed sexually discriminatory practices and conduct prohibited by the Missouri Human Rights Act.

60. The above described retaliatory actions against Ms. McGruder aided and abetted the commission of discriminatory acts by MUSOM prohibited by the Missouri Human Rights Act. These actions violated section 213.070 of the Missouri Human Rights Act.

61. The retaliatory actions of MUSOM against Ms. McGruder adversely affected her employment with the MUSOM and future employment and she was damaged as a result of the MUSOM's retaliation against her.

62. As a direct and proximate result of the actions of the MUSOM, Ms. McGruder has suffered emotional distress, financial loss, loss of professional status, and lasting psychological harm.

63. Ms. McGruder is informed and believes that the outrageous conduct of the MUSOM and its agents as described above was malicious and oppressive, and done with a conscious disregard of Ms. McGruder's rights with the intent to injure her. The School of Medicine ratified the discriminatory conduct of its agents and employees against Ms. McGruder by participating in and failing to stop the discriminatory conduct based on sex.

64. As a further direct and proximate result of the defendant's violation of the Missouri Human Rights Act, Ms. McGruder has been compelled to retain the services of counsel in an effort to enforce the Act, and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff requests that attorney's fees and costs be awarded pursuant to the Missouri Human Rights Act.

WHEREFORE, Ms. McGruder respectfully requests judgment against defendant Board of Curators as follow:

1. Ms. McGruder to her position as Associate Director of Administration, or, in lieu of reinstatement, order front salary and benefits for the period remaining until Ms. McGruder's retirement;
2. Award Ms. McGruder equitable relief in the form of back salary and fringe benefits up to the date of reinstatement;

3. For compensatory and general damages according to proof at trial;
4. For punitive damages;
5. For attorneys' fees pursuant to statute and costs of suit;
6. Prejudgment and post-judgment interest on all amounts claimed;
and
7. Such other and further relief as the court deems just and proper

Respectfully submitted,

/s/ PAUL H. GARDNER

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Blue Springs, MO 64015
(816) 224-3005
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ATTORNEYS FOR PLAINTIFF
ANN MCGRUDER

EXHIBIT

1



MICHAEL L. PARSON
GOVERNOR

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
MISSOURI COMMISSION ON HUMAN RIGHTS

ANNA S. HUI
DEPARTMENT DIRECTOR

Mike Dierkes
Acting COMMISSION CHAIR

ALISA WARREN, Ph.D.
EXECUTIVE DIRECTOR

NOTICE THAT A COMPLAINT HAS BEEN FILED

July 17, 2018

Paul H. Gardner
801 N.W. Vesper Street,
Blue Springs, MO 64015

RE: Ann C. McGruder v. ELLIS FISCHER CANCER CENTER
E-07/18-49702; 28E-2018-01243C

This is to inform you the enclosed complaint alleging employment discrimination has been dually filed with the Missouri Commission on Human Rights (MCHR) and the federal Equal Employment Opportunity Commission (EEOC). **Please keep this letter for future reference.**

This complaint will be investigated by the EEOC. You are encouraged to cooperate fully in the investigation. An investigator from that agency will be in contact with you. Please keep in mind:

It is VERY IMPORTANT you keep us informed of any change in your address, telephone numbers, or email address. The preferred method of contact is email.

In determining if a violation of the law occurred, the Executive Director will consider all facts and evidence provided by you and by the respondent in the course of investigation.

The parties are encouraged to consider settling this complaint on mutually-agreeable terms. Please keep us informed if you and the respondent resolve your complaint.

Due to limited resources, do not call us prior to the investigator contacting you, unless you have a change in your contact information. Please be assured we are working diligently on your case. Thank you for your patience.

If you have any questions, my email address is listed below. Thank you.

Sandra Herring, Unit Supervisor - Sandra.Herring@labor.mo.gov

Enclosures: copy of complaint, General information Sheet

NOTICE OF STATUTE PROHIBITING RETALIATION

It shall be an unlawful practice for any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden under this law or because he or she has filed a complaint, testified, or assisted in any proceeding under Chapter 213, RSMo. as amended.



3315 W. TRUMAN BLVD.
P.O. Box 1129
JEFFERSON CITY, MO 65102-1129
PHONE: 573-751-3325
FAX: 573-751-2905



111 N. 7TH STREET, SUITE 903
ST. LOUIS, MO 63101-2100
PHONE: 314-340-7590
FAX: 314-340-7238



P.O. Box 1300
OZARK, MO 65721-1300



1410 GENESSEE, SUITE 260
KANSAS CITY, MO 64102-1047
FAX: 816-889-3582



106 ARTHUR STREET
SUITE D
SIKESTON, MO 63801-5454
FAX: 573-472-5321

Relay Missouri: 1-800-735-2966 (TDD) 1-800-735-2466 (Voice)
www.labor.mo.gov/mohumanrights mchr@labor.mo.gov

ATTACHMENT A

My name is Ann McGruder and I was hired as Associate Director of Administration in the Department of Surgery for the Ellis Fischel Cancer Center in Columbia, Missouri. I was employed at Ellis Fischel from August 1, 2016 to January 5, 2018, when my position was eliminated. Ellis Fischel is a part of the University of Missouri-Columbia health care system.

When I began work at Ellis Fischel in early August 2016, it quickly became apparent that no one was performing the role of Department Administrator ("DA") for the Department of Surgery. Soon after I began work, Dr. Kevin Staveley-O'Carroll, Chairman of the Department of Surgery, asked me to perform the duties associated with the DA role as he had no one to perform the operational duties, functions, leadership and executive oversight that must be performed by the DA. Although the DA position carried responsibilities different than that of Associate Director, I accepted the DA assignment because my new boss requested it and I feared I would be out of a position if I declined his request.

I performed the responsibilities of the DA in the Department of Surgery officially from August 1, 2016 until June 30, 2017. I received good reviews for my work from faculty and staff members in the Department of Surgery, including Dr. Staveley-O'Carroll. During my employment, I reported to and had daily meetings and/or interactions with Dr. Staveley-O'Carroll.

In the course of performing the DA responsibilities, I learned that a man named Matt Waterman had been hired as DA on May 1, 2018. However, Mr.

Waterman was not performing the duties of the DA while on the payroll. I reported to Dr. Staveley-O'Carroll on several occasions that Waterman was compensated as the DA, although he performed no duties in that role.

In early June 2017, I learned that Mr. Waterman would officially assume the DA role, minus certain duties, for approximately \$37,000.00 more than I was compensated. This disparity in pay and work responsibilities favoring Waterman continued throughout my employment at Ellis Fischel.

After several weeks of exercising the responsibilities of the DA, I requested an increase in compensation to reflect my new duties. Although this and other requests for increased compensation were denied, I continued to perform duties properly assigned to Waterman, even after he was officially assigned DA responsibilities in late June 2017.

I continued to protest the disparity in pay between Waterman and myself in an email to Staveley-O'Carroll dated June 14, 2017, which states in pertinent part:

I have appreciated being the Department Administrator since August 1, 2016 and have done/trying to do a great job and have putting a lot of time and effort. I was trying last night to come up with how to split that position between two individuals, analogous to have to have two Chairs and how to split such a role. I do not have an answer yet feel strongly that if I did the position for \$115K and Matt will not make \$188K to split the role will mean that we both need to have the same compensation. He was given a promotion that included a title and compensation adjustment in April/ May of 2016 to assume the role of Department Administrator and never filled that role yet has for over a year received additional compensation and an advanced title. Our gender difference cannot be the reason for the difference in compensation ...

I was recruited to enable and support your vision for the cancer center, work on NCI aspirations, AAU metric improvement, prepare reports for the Dean for you role as Chair and Director of the Cancer Center and work on

promotion and tenure for the Department. I am and was excited about this role and assumed the Department Administrator role as the first few days I was here as it became clear operationally and from what the Division Chiefs, Leads and Department Staff articulated that they were absent a Department Administrator and desired and needed leadership. Only one department staff member had met or knew Matt before I arrived August 1, 2016.

I say all of this as Jonathan and Mitch has/have indicated to me that Matt's raise and increased title in April/May of 2016 was intended for him to do what I have done for nearly a year, e.g. manage, operate the Department of Surgery to fulfill your goals and the goals for the SOM and that they do and did not see him as a liaison to the C Suite or a connection to the Hospital ...

Please let me know how you would like me to proceed; I am happy to have Matt and I have equal compensation and sort out the Department Administrator role and/or I am happy to work as the Associate Director for Administration and pursue NCI aspirations, AAU metrics, P&T for the Department and reports due to the Dean, Provost and Chancellor on your behalf ...

My thanks in advance for the support and leadership.

(Exhibit 1)

After the School of Medicine announced the appointment of Mr. Waterman to the DA position, I emailed Staveley-O'Carroll on June 22, 2017, reviewing my performance in the DA role and the constructive changes I had implemented in the Department of Surgery. I also continued to protest the disparity in salary between Waterman and myself:

Matt was given a title change to Executive Director of Surgical Services and a salary increase in May 2016 to assume the role, responsibility and accountability of being the Department Administrator. He has not performed this role and has not produced any work product for over a year. He has a base compensation of \$188K.

I have performed the role, responsibility, strategic planning and accountability of Department Administrator for 11 months at an annual compensation of \$115K.

Given the past few days and now that staff and faculty within the Department are talking, let's endeavor to resolve this please. I would cherish the opportunity to work on NCI/AAU metrics and support MU and UM. I also have become enormously attached to the 126 individuals I have worked with, served and lead and succeeded in gaining their trust and providing them a short and long term vision on your behalf for the Department and I would like to provide them good leadership too.

I am interested and open to resolving this situation. Please let me know. I am committed to the University and its mission and I am committed to your vision and mission for the Department and for our hopeful NCI designated Cancer Center.

(Exhibit 2)

I met only once with Dr. Staveley-O'Carroll, after June 30, 2017. This sole meeting occurred on August 2, 2017, when Dr. Staveley-O'Carroll told me he wanted to fire an employee. In fact, Staveley-O'Carroll stated to me on multiple occasions that he would like to remove most of the faculty in the Department of Surgery ("DOS") and replace them with male friends of his. I informed him that he could not adopt such a replacement policy and strategy, even if they all had work performance issues, because of the legal risk this created for the School of Medicine. Staveley-O'Carroll became visibly angry in response to my cautionary statement and continued to denigrate and criticize staff and colleagues in the Department of Surgery. Based on my interaction with Staveley-O'Carroll, I observed that his conduct created and encouraged a toxic work environment for those who had to deal with him on a regular basis. In particular, he targeted female staff and faculty as incompetent and stated that he preferred firing people as opposed to transferring them to another department at the School of Medicine.

The aggressive verbal contempt that Staveley-O'Carroll expressed for other doctors, DOS staff and women shocked and intimidated me. Over time, it became clear that Staveley-O'Carroll's continued aggressive statements to me that he preferred to fire people was retaliation against me for warning him about the legal problems created for the University by such action.

Beginning in June 2017, Dr. Staveley-O'Carroll excluded me from meetings with Division Chiefs, Department and Division Staff, hospital administration, CSA integration, finance/budget and strategic planning. While these meetings often involved my areas of responsibility, Dr. Staveley-O'Carroll convened them within my hearing so that I would know that I was excluded from these meetings. This action was malicious, deliberate retaliation on Staveley-O'Carroll's part because I challenged the sex discrimination favoring Matt Waterman regarding the pay and work responsibilities of the DA position and opposed his attempts to hire his male friends because it created legal risks for the School of Medicine under the Civil Rights laws.

By the summer of 2017, I could no longer tolerate the toxic work environment created and maintained by Dr. Staveley-O'Carroll and began seeking a transfer out of the Department of Surgery. On August 23, 2017, I requested that my position be transferred to the Dean's office under Dr. Patrice Delafontaine. I continued to seek a transfer of my position as the work environment deteriorated and there was no meaningful investigation of my complaints by the University of Missouri Office Of Civil Rights.

In late July 2017, I spoke with Marla Lampp, the Assistant Dean to Dean Patrice Delafontaine and explained my employment experiences under Staveley-O'Carroll. I followed this conversation with a confirmatory memorandum to Ms. Lampp on July 31, 2017, detailing my negative employment experiences in the Department of Surgery. (Exhibit 4). No action was taken by the School of Medicine to address or correct the situation. Instead, the work environment at the School of Medicine became more hostile and I was ultimately terminated in retaliation for complaining about sex discrimination and a retaliatory work environment.

In August 29, 2017, I emailed Jatha Sadowski, a senior HR official at the University, who I had known for several years. I informed her that Dr. Staveley-O'Carroll "has violated federal employment law ... and the environment is becoming hostile and toxic." (Exhibit 5). As a result of this deteriorating work environment, I requested that "[m]y position needs to shift to the Dean of the School of Medicine or to campus." This request was denied by Dean Delafontaine without explanation or any acknowledgement that I had complained about the sex discrimination, hostile work environment and retaliation that was occurring in the Department of Surgery.

On August 30, 2017, I received an e-mail from Ms. Sadowski stating that the "Office of Civil Rights & Title IX ... will reach out to you to conduct a preliminary investigation." (Exhibit 4). Sadowski further stated to me "In the interim please let me know if you are comfortable reaching out to ... Dean

Delafontaine and Kim McDonald, the HR representative for School of Medicine." (Id.).

On September 14, 2017, Dr. Staveley-O'Carroll emailed me as follows:

It has come to my attention that you have concerns regarding your treatment in terms of gender equity. It is very important to me that you know these issues are appropriately explored. For this reason I am contacting the Title IX office to make them aware. All the best, Kevin.

(Exhibit 6)

There was no question in my mind that Staveley-O'Carroll sent this message to intimate me and retaliate against me for reporting his conduct to the Dean's office. I was surprised and disappointed that the Dean's office disclosed to Dr. Staveley-O'Carroll my discussions, communications and complaints about him and the hostile work environment that he created and encouraged. I expressed my concern about this disclosure after receiving a message from Jatha Sadowski of HR "that OCR/Title IX will be investigating this matter." I responded to Sadowski with the following email in pertinent part:

Typically Title IX would reach out to the individual raising the concern not the individual named, as Kevin's email indicates?

I have no context regarding Marla's email, thus, my reaching out to you. I understood, possibly inaccurately, that you planned to visit with the Dean as Associate Vice Chancellor for Human Resources and additionally, in confidence of the conversation you and I had several months ago, I reach out to you because of your and my history on senior staff and your offering your personal experience here relating to gender and pay, as such that is what prompted the enote.

The interest in shifting my position was to find a mutually beneficial solution.

Thank you for responding

(Exhibit 6)

To my knowledge, no "preliminary" or any other investigation of my complaints were ever conducted by the University under Title 9, the Office of Civil Rights or any other state or federal civil rights laws. Moreover, no results of any investigation of my complaints were communicated to me and I do not believe that the University followed its procedures in conducting the investigation or disclosing my complaints to Dr. Staveley-O'Carroll.

Several improper considerations were contributing factors to the sex discrimination and hostile work environment that led to the elimination of my position. The first contributing factor was sex discrimination by Dr. Staveley-O'Carroll and the School of Medicine against me and in favor of Matt Waterman by requiring me to do work which he was hired to do and paying me approximately \$37,000.00 less. This was an ongoing disparity that I reported and complained about soon after I began employment at Ellis Fischel in August 2016. The School of Medicine never provided a convincing explanation for this disparity in pay between Waterman and myself. Sex discrimination was a contributing factor to both the pay discrepancy and the School of Medicine's decision to eliminate my position.

Second, the Department of Surgery was an ongoing hostile employment environment, created, allowed and encouraged by Dr. Staveley-O'Carroll. There was no real internal enforcement of the civil rights laws by the School of Medicine and employees had little protection against the hostile, retaliatory environment that Staveley-O'Carroll created and encouraged.

protection for employees of DOS was reinforced by the lack of meaningful confidentiality at the School of Medicine for employees who complain about employment discrimination. Although Dean Delafontaine was aware of Staveley-O'Carroll's behavior, his refusal to allow me to transfer to another department contributed to the retaliatory harassment directed against me by Staveley-O'Carroll and the School of Medicine for complaining about sex discrimination and the hostile work environment in the DOS.

The sex discrimination and retaliatory harassment directed against me by Staveley-O'Carroll and the School of Medicine culminated in the termination of my employment on January 5, 2018. My position was eliminated in retaliation for: (1) complaining to the School of Medicine about sex discrimination favoring a specific white male (2) the hostile work environment toward women (3) my warnings to Staveley-O'Carroll about the legal dangers of "firing" people and replacing them with male friends and (4) disclosure by the Dean's office to Staveley-O'Carroll of my complaints regarding his discriminatory conduct which allowed him to intimate and retaliate against me in the June 14, 2017 email, and (5) denying my efforts to obtain a transfer from the Department of Surgery after it became apparent that the Dean's office would not confront and remedy the hostile work environment that Dr. Staveley-O'Carroll created and encouraged. The "departmental reorganization" ground given for my termination was the type of sham justification that Staveley-O'Carroll would formulate when he wanted people fired. I believe that an

investigation of this matter will disclose additional sex discrimination and retaliation against me not currently ascertainable.

FILED
JUL 02 2018
MO Commission on Human Rights
Jefferson City Office

U.S. Equal Employment Opportunity Commission

ELLIS FISCHER CANCER CENTER
Department Of Surgery
1 Hospital Drive
Columbia, MO 65212

PERSON FILING CHARGE

Ann C. McGruder

THIS PERSON (check one or both)

- ☒ Claims To Be Aggrieved
☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

28E-2018-01243

FEPA CHARGE NO.

E-07/18-49702

NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTION WHERE A FEP AGENCY WILL INITIALLY PROCESS
(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

- ☒ Title VII of the Civil Rights Act (Title VII) ☐ The Equal Pay Act (EPA) ☐ The Americans with Disabilities Act (ADA)
☒ The Age Discrimination in Employment Act (ADEA) ☐ The Genetic Information Nondiscrimination Act (GINA)

HAS BEEN RECEIVED BY

- ☐ The EEOC and sent for initial processing to _____
(FEP Agency)
☒ The Missouri Commission On Human Rights and sent to EEOC for dual filing purposes.
(FEP Agency)

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA or GINA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency. For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- ☐ Race ☐ Color ☒ Sex ☐ Religion ☐ National Origin ☒ Age ☐ Disability ☒ Retaliation ☐ Genetic Information ☐ Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
July 17, 2018	James R. Neely, JR, Director	

INFORMATION ON CHARGES OF DISCRIMINATION

EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

Section 1602.14 Preservation of records made or kept. Where a charge ... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 207(f) of GINA, Section 4(d) of the ADEA, and Section 503(a) of the ADA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed, or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.



MISSOURI COMMISSION ON HUMAN RIGHTS

MISSOURI DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS

COMPLAINT PROCESS

THE INVESTIGATION

- The person who files the complaint is called the **Complainant**. The organization or individual against whom the complaint is filed is called the **Respondent**. When a complaint of employment discrimination is filed with the Missouri Commission on Human Rights (MCHR), it is also automatically filed with the federal Equal Employment Opportunity Commission (EEOC) if the employer has 15 or more employees (or 20 or more employees if based on age). When a complaint of housing discrimination is filed with MCHR, it is also automatically filed with the U.S. Department of Housing and Urban Development.
- When a complaint is filed, MCHR conducts an impartial investigation to determine if the Missouri Human Rights Act was violated. MCHR does not choose sides or represent either the **Complainant** or the **Respondent**. Instead, MCHR looks for information that will show whether or not a person's protected category, such as race, disability, gender, etc., was a contributing factor in the alleged discriminatory act. MCHR is a neutral fact-finder.
- Please cooperate fully and promptly in this investigation because that speeds up the process. Keep us informed of any changes of address, telephone number or e-mail address. If you have an attorney, have him or her supply MCHR with a letter indicating he or she represents you. Also, reply promptly to requests for documents, names of witnesses and any other things MCHR might require. The best way for us to gather the facts is if you assist us.
- When the investigation has been completed, the Executive Director makes the final determination and notifies both parties in writing.
- If the Executive Director finds there was no violation of the statute, then the case will be closed and a notice of right to sue issued to the **Complainant**. Such a notice allows the **Complainant** to file suit in court against the **Respondent(s)** named in the complaint. Due to a change in the statute, such notices of right to sue will only be issued regarding alleged discrimination that occurred prior to August 28, 2017.
- If the Executive Director finds no violation in an employment discrimination complaint that has also been filed with EEOC, which will have a case number beginning with an "E," then the **Complainant** may ask the EEOC to review that determination. The **Complainant** must make this request in writing to EEOC within fifteen (15) days of receiving the Executive Director's determination.
- If the Executive Director determines the statute was violated, then MCHR will attempt to conciliate (settle) the case. If the case does not settle, MCHR can decide to hold a public hearing to adjudicate the complaint.
- If MCHR has not completed its processing of a complaint, then the **Complainant** may ask MCHR for a notice of right to sue. When issuing a notice of right to sue, MCHR terminates its investigation and closes its file. **A COMPLAINANT MUST FILE SUIT WITHIN TWO (2) YEARS OF THE ALLEGED DISCRIMINATORY ACT AND WITHIN NINETY (90) DAYS OF THE ISSUANCE OF THE NOTICE OR THE RIGHT TO SUE WILL LAPSE.**

SETTLEMENT

- At any time in the complaint process, the **Complainant** and the **Respondent** may negotiate a settlement to resolve the complaint. MCHR encourages the parties to consider no-fault, compromise settlements.

RETALIATION

- It is illegal to take action against people because they complained of discrimination, whether they complained formally or informally, internally or externally, alleging discrimination against themselves or others. It is also illegal to retaliate against witnesses or anyone who has testified, assisted, or participated in any manner in MCHR's processing of the complaint.

RECORD KEEPING

- **Respondents** are required to keep all of the records the investigation may need. Records made by the employer regarding the **Complainant** and other similarly situated persons are to be kept for one full year, but if a complaint is filed, then these records must be kept until the complaint is fully resolved. Records may be important even if they are about the **Complainant's** coworkers or those who sought a job **Complainant** sought.

COMPLAINANT OR RESPONDENT ATTORNEYS

- The **Complainant** and the **Respondent** have the right to have an attorney during the administrative process, but it is not a requirement at the investigation stage. If the **Complainant** or **Respondent** hires an attorney, then the attorney should send MCHR a letter confirming the representation. All subsequent correspondence will then be sent directly to the attorney. Incorporated **Respondents** at public hearing are required to have an attorney.

REMEDIES FOR DISCRIMINATION

- The Missouri Human Rights Act provides that remedies may be ordered when MCHR finds AFTER A PUBLIC HEARING that a **Respondent** has engaged in an unlawful discriminatory practice. Such remedies include, BUT ARE NOT LIMITED TO, payment of back pay, hiring, reinstatement or promotion, the extension of full, equal and un-segregated public accommodations, and payment of actual damages, including compensation for pain, suffering and deprivation of civil rights. The **Complainant** has an obligation under the law to mitigate the damages by continuing to seek work during any periods of unemployment.

QUESTIONS?

- The MCHR staff is here to assist both parties while the complaint is in our process. Do not hesitate to seek clarification on any part of the complaint process. Some of the issues we deal with are complex, and you might want additional information. Copies of the Missouri Human Rights Act and MCHR's Rules and Regulations are available free of charge from our web site at www.labor.mo.gov/discrimination.

**MISSOURI COMMISSION ON
HUMAN RIGHTS
P.O. Box 1129
Jefferson City, MO 65102-1129
Phone: 573-751-3325
Fax: 573-751-2905
E-Mail: mchr@labor.mo.gov
Website: www.labor.mo.gov/mohumanrights**

EXHIBIT

2



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
MISSOURI COMMISSION ON HUMAN RIGHTS

MICHAEL L. PARSON
GOVERNOR

ANNA S. HUI
DEPARTMENT DIRECTOR

Melody A. Smith, Ed.D.
ACTING COMMISSION CHAIRPERSON

ALISA WARREN, Ph.D.
EXECUTIVE DIRECTOR

Ann C. McGruder
11605 E. Barnes Chapel Road
Columbia, MO 65201

RE: Ann C. McGruder vs. ELLIS FISCHER CANCER CENTER
 E-07/18-49702 28E-2018-01243C

The Missouri Commission on Human Rights (MCHR) is terminating its proceedings and issuing this notice of your right to sue under the Missouri Human Rights Act because you have requested a notice of your right to sue.

This letter indicates your right to bring a civil action within 90 days of the date of this notice against the respondent(s) named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, but it must be brought no later than two years after the alleged cause occurred or its reasonable discovery. Upon issuance of this notice, the MCHR is terminating all proceedings relating to the complaint. No person may file or reinstate a complaint with the MCHR after the issuance of a notice of right to sue relating to the same practice or act. You are hereby notified of your right to sue the Respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. This notice of right to sue has no effect on the suit-filing period of any federal claims. This notice of right to sue is being issued as required by Section 213.111.1, RSMo, because it has been over 180 days after the filing of the complaint and MCHR has not completed its administrative processing.

Respectfully,

Alisa Warren, Ph.D.
Executive Director

April 1, 2019
Date

Additional contacts on next page:



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1410 GENESSEE, SUITE 260
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Missouri Commission on Human Rights is an equal opportunity employer/program. Auxiliary aides and services are available upon request to individuals with disabilities.

TDD/TTY: 1-800-735-2966 (TDD) Relay Missouri: 711
www.labor.mo.gov/mohumahrighs E-Mail: mchr@labor.mo.gov

RE: Ann C. McGruder vs. ELLIS FISCHER CANCER CENTER
E-07/18-49702 28E-2018-01243C

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